

TRULINCS 22279044 - CALDWELL, KERRY G - Unit: OTV-G-B

FROM: 22279044

SUBJECT: 2255

DATE: 06/03/2019 02:12:17 PM

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI

KERRY G. CALDWELL,  
PLAINTIFF,

V.

CASE NO. 17-CR-00515 HEA-1

THE UNITED STATES OF AMERICA,  
DEFENDANT.

4:19CV1679 HEA

FILED

JUN 10 2019

U. S. DISTRICT COURT  
EASTERN DISTRICT OF MO  
ST. LOUIS

MOTION UNDER 18 U.S.C. 2255 TO VACATE, SET ASIDE, OR CORRECT  
SENTENCE BY A PERSON IN FEDERAL CUSTODY

1. (a) Name and location of court which entered judgement of conviction:

UNITED STATES DISTRICT COURT : EASTERN DISTRICT OF MISSOURI

(b) Criminal Docket No. 17-cr-00515 HEA-1

2. (a) Date of judgement of conviction: July 11, 2018

(b) Date of Sentencing: July 11, 2018

3. Length of sentence: 84 Months

4. Nature of crime: Attempted Carjacking and 18 U.S.C. 924(C)(1)(A)(II) Brandishing a firearm in furtherance of a crime of violence

5. Plaintiff entered a plea of guilty to 18 U.S.C. 924(C)(1)(A)(II).

6. Plaintiff did not appeal the judgement.

7. Plaintiff has not previously filed any other motions, petitions, or applications, concerning this judgment in any court.

8. Plaintiff makes this motion upon the following grounds:

GROUND ONE:

(a) Ineffective assistance of counsel.

(1) Counsel failed to inform plaintiff that the victim failed to identify him as the perpetrator.

(2) I informed counsel that I was not waiving any of my sentencing issues and that I wanted him to file my notice of appeal immediately.

(3) Once in prison I spoke to my counsel over the telephone and asked for copies my PSI report, docket sheet, the plea agreement and the notice of appeal, and counsel has never sent me any of the requested documents; despite the fact that the Honorable Judge Henry Edward Autrey stated at my sentencing that my counsel had everything pertaining to my case and I could get those documents from her.

(b) I have not appealed or filed a prior post conviction in this matter.

9. I have not raised this issue in any court prior to this petition, as I was prevented by doing so due to ineffective assistance of counsel.

10. I have no motion, petition or appeal in any court for the judgement I am now challenging.

11. The name and address for my attorney is: Diane Dragan, Federal Public Defender, 1010 Market Street, Suite 200, St. Louis, MO 63101.

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12. I was only sentenced to the single count in this matter.

13. I have no future sentence to serve after this judgment.

14. TIMELINESS OF MOTION: Petitioner is within the statutory one year to file this 28 U.S.C. 2255.

Therefore, the movant asks that the Court grant the following relief: That this Court grant a hearing to develop these arguments further with assistance of an assigned counsel or to resentence plaintiff so that he may file his notice of appeal in a timely manner, and such other and further relief which movant may be entitled.

Respectfully submitted,



Kerry G. Caldwell 22279-044

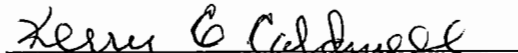
FCI Otisville

P.O. Box 1000

Otisville, NY 10963

I declare under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. 2255 was placed in the prison mailing system on \_\_\_\_\_, 2019.

Executed on \_\_\_\_\_, 2019



Kerry G. Caldwell, Pro Se